

IN THE MATTER OF
SUPERIOR MORTGAGE GROUP, LLC
MORTGAGE LENDER
LICENSEE

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. DFR-EU-2007-131

* * * * *

STATEMENT OF THE CASE

The hearing on the above captioned matter was held on April 28, 2008, and heard by the Deputy Commissioner of Financial Regulation, Mark Kaufman ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a summary suspension of the Maryland Mortgage Lender Licenses of Superior Mortgage Group, LLC ("Respondent"), and allegations of charges against Respondent, issued by the Office of the Commissioner of Financial Regulation on February 8, 2008 (hereinafter referred to as the "Suspension Letter"). [Comm'r 3]. The summary suspension was issued pursuant to Md. Code Ann., State Government ("SG") § 10-226(c)(2). In the Suspension Letter, the Office of the Commissioner alleges that Respondent has violated Maryland Code Ann. Financial Institutions ("FI") §§ 11-517(a)(1), (4) and (5) and does not meet the three-year mortgage lending business experience requirement to obtain a mortgage lender license set forth in FI § 11-506. [Comm'r 3]. Respondent is a mortgage lender licensed pursuant to FI § 11-501 *et seq.* [Comm'r 8].

Respondent did not appear, but proper service of the notice of the hearing being established, the hearing proceeded pursuant to COMAR 09.01.02.09. Kris King, Assistant Attorney General, appeared as presenter of evidence on behalf of the Office of the Commissioner. Christopher J. Young, Assistant Attorney General, served as counsel to the

Deputy Commissioner. The proceedings were electronically recorded.

FINDINGS OF FACT

From the testimony offered by Calvin Wink, Investigator, and Janet Erickson, Examiner Supervisor (both with the Office of the Commissioner of Financial Regulation) and the exhibits presented, and with the opportunity to observe the demeanor of the witnesses and to assess their credibility, the Deputy Commissioner finds the relevant facts to be these:

1. During all relevant periods, Respondent was a duly licensed mortgage lender under FI § 11-501 *et seq.* [Comm'r 8].
2. Respondent held an original mortgage lender license for its home office and an additional ten branch office licenses. [Comm'r 7 and 8].
3. Respondent received proper notice of the hearing as evidenced by the completed and signed certified mail receipt attached to the hearing notice. The notice was sent via certified mail to Ms. Gloria Freifeld, Superior Mortgage Group, LLC, 4919 Memorial Highway, Tampa, Florida 33634. A signed certified-mail receipt verifies delivery of the notice. [Comm'r 1].
4. The address that the hearing notice was sent to is the address of Respondent on record with the Office of the Commissioner; it is also the address of Respondent as set forth in a letter dated February 19, 2008 sent by Ms. Freifeld to the Office of the Commissioner requesting a hearing. It is also the address of Respondent contained in Respondent's Operating Agreement. [Comm'r 2, 4, 5, and 8].
5. Ms. Gloria Freifeld is the sole owner of Respondent. [Comm'r 5].
6. Ms. Freifeld made the following material misrepresentations on Respondent's application for a mortgage lender license dated November 3, 2006:

a. Ms. Freifeld, on her resume attached to her application package (her "Resume"), stated that from 4/04 through 11/29/06, she worked for Global Branch Solutions engaged in loan origination--placing, processing, and originating loans for branches, and also acting as a compliance officer, auditing files for proper state disclosures, signatures and closing documents. [Comm'r 7—Attachment 2]. Global Branch Solutions, however, was not a licensed Maryland mortgage lender, but rather was engaged in the business of marketing net branches for the company Global Mortgage, Inc. [Comm'r 6; Testimony of Calvin Wink]. Investigator Calvin Wink testified that he had knowledge, through an unrelated investigation of Global Mortgage, Inc., that Ms. Freifeld worked for Global Branch Solutions in an accounting/financial related capacity—not as a mortgage originator, processor, or compliance officer. [Testimony of Calvin Wink].

b. Ms. Freifeld on her Resume, stated that she worked for Nations Bank/Bank of America (Bank of America is the successor to Nations Bank after a merger) from 8/76 through 8/94. The Resume stated that Ms. Freifeld acted as loan originator for three of those years, taking applications, gathering documents for loans, and processing and closing loans. Ms. Freifeld, however, never worked for Nations Bank/Bank of America. Investigator Calvin Wink testified that he requested verification of employment from Bank of America. In response, Bank of America searched its employment records using Ms. Freifeld's social security number, and using the names Gloria Marie Freifeld and Gloria M. Tannous (Ms. Freifeld's maiden name). Bank of America reported to Mr. Wink in writing that it had no record of employment for Ms. Freifeld under her social security number or either name provided. [Comm'r 7, Attachment 3].

7. Ms. Freifeld failed to update her mortgage lender application with material information, as required. The application states that it is continuing in nature and applicants explicitly agree to notify the Commissioner of any changes in the information contained the application. [Comm'r 4, 6]. In particular, Respondent failed to inform the Office of the Commissioner of the following:

a. On March 2, 2007, the Virginia Bureau of Financial Institutions denied a mortgage broker license to Respondent because its investigation showed: "(1) Ms. Gloria Freifeld, the applicant's president and sole owner, failed to disclose multiple debts in the Personal Financial Report and Disclosure Statement . . . (2) Ms. Freifeld falsely represented . . . that she originated loans and served as a compliance manager while employed with Global Branch Solutions . . . and (3) Ms. Freifeld has no verifiable mortgage broker experience." [Comm'r 7, Attachment 4; Comm'r 6]. On Respondent's Maryland mortgage lender license application, Ms. Freifeld answered "no" to the question "Have you ever applied for and been denied a license issued by the Department of Labor, Licensing and Regulation or any other governmental unit of Maryland or any other state?" Ms. Freifeld never updated Respondent's application as required by informing the Commissioner of this denial. [Comm'r 6; Comm'r 7, Attachment 5; Testimony of Calvin Wink].

b. On June 5, 2007, the United States District Court for the Middle District of Florida issued an Order Granting Motion for Preliminary Injunction against Mitchell Freifeld and Gloria Freifeld, defendants, in bankruptcy case number 8:06-bk-06361-CPM (Mitchell Freifeld, debtor). [Comm'r 7, Attachment 7]. Ms. Freifeld answered "no" on Respondent's license application to the following question: "Have there been any criminal, civil, or

administrative actions initiated against you by any state, governmental unit, or individual in the past 12 months?" Ms. Freifeld never updated Respondent's application by informing the Commissioner of this action against her. [Comm'r 7, Attachment 6].

8. Respondent conducted business under the name "The Money Store," a name that is different from that which is on its original and branch licenses, as evidenced by the use of the new name on Respondent's website. [Comm'r 7, Attachment 9; Testimony of Calvin Wink].

9. There was not sufficient evidence presented to prove by a preponderance of the evidence that Respondent completed a change of control relating to the purported purchase of Respondent by The Money Store.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Deputy Commissioner concludes that Respondent has violated FI §§ 11-517(a)(1), (4), and (5) in connection with the material misrepresentations on its license application regarding Ms. Freifeld's mortgage lending business experience with Global Branch Solutions and her employment with Nations Bank/Bank of America. Respondent violated FI §§ 11-517(a)(4), and (5) by failing to update its application as required in connection with the Virginia license denial and Ms. Freifeld's bankruptcy case. Moreover, Respondent does not meet the three-year mortgage lending business experience requirement to obtain a mortgage lender license set forth in FI § 11-506. Respondent's actions unequivocally demonstrate its unworthiness, bad faith, dishonesty and other qualities that indicate that its business has not been or will not be conducted honestly, fairly, equitably, and efficiently, in violation of FI § 11-517(a)(5). The foregoing violations of law also constitute a violation of FI § 11-517(a)(5).

The Deputy Commissioner finds that the public health, safety, and welfare imperatively required the emergency action of suspending Respondent's original and branch licenses pursuant to SG § 10-226(c)(2), as set forth in the Suspension Letter.

FI §§ 11-517(a)(1), (4), and (5) provide that:

"Subject to the hearing provisions of § 11-518 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the licensee:

(1) Makes any material misstatement in an application for license;

(4) Violates any provision of this subtitle or any rule or regulation adopted under it or any other law regulating mortgage loan lending in the State; or

(5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently."

FI § 11-506(b) provides that:

"the applicant must satisfy the Commissioner that the applicant has at least 3 years of experience in the mortgage lending business."

FI § 11-505(d)(2) provides that:

"A person may not conduct any mortgage loan business at any location or under any name different from the address and name that appears on the person's license."

SG § 10-226(c)(2) provides that:

"A unit may order summarily the suspension of a license if the unit:

(i) finds that the public health, safety, or welfare imperatively requires emergency action;

and

(ii) promptly give the licensee:

1. written notice of the suspension, the finding, and the reasons that support the finding;

and

2. an opportunity to be heard.

The Deputy Commissioner finds that the Respondent's actions constitute extremely serious violations of law. The material misrepresentations of Respondent on its license

application regarding Ms. Freifeld's mortgage lending experience with Global Branch Solutions and her employment with Nations Bank/Bank of America are particularly troubling. They are outright lies. These misrepresentations were material because, but for them, Respondent would not have been granted a license in the first instance. Indeed, the evidence proves that Respondent did not qualify for a Maryland mortgage lender license, or any of its branch licenses, at the time they were granted. The Deputy Commissioner takes note of the fact that Virginia denied a mortgage broker license to Respondent, in part, for similar material misrepresentations and lack of experience.

The Deputy Commissioner also finds troubling the fact that Respondent did not meet its legal obligation to update its application by informing the Commissioner of its Virginia license denial and Ms. Freifeld's federal bankruptcy case. The Deputy Commissioner believes that Respondent's failure to update its application constitutes behavior that demonstrates Respondent's unworthiness, bad faith, and dishonesty.

Taken in the context of the foregoing violations, the Deputy Commissioner believes that Respondent's decision to engage in the mortgage lending business under the name "The Money Store," without complying with Maryland law further shows Respondent's utter disregard for the rule of law and the authority of the Commissioner of Financial Regulation.

The Deputy Commissioner must conclude that the citizens of Maryland will not be well served and, in fact, will be put at risk if Respondent is permitted to retain its original and branch mortgage lender licenses. The Commissioner finds the actions which gave rise to Respondent's violations of law to be of the utmost seriousness, show Respondent's bad faith, and to be of such a nature as to have a deleterious effect on the public and mortgage industry. The Deputy

Commissioner must conclude that Respondent would be a danger to the public and a detriment to the mortgage industry if permitted to remain licensed.

FINAL ORDER

In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 1st day of May, 2008, hereby **ORDERED** that:

Pursuant to FI § 11-517(a), Respondent's original, and each of its branch, mortgage lender licenses shall be and hereby are immediately **REVOKED**; and it is further

ORDERED, that Respondent shall, within thirty (30) days of the date hereof, pay to the Commissioner of Financial Regulation a total of **\$5,000.00 in civil penalties**, as follows:

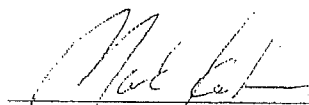
- a. **\$1,000.00** for violating FI § 11-517(a)(1), (4) and (5) for the material misrepresentation in Respondent's application regarding Ms. Freifeld's mortgage lending experience with Global Branch Solutions.
- b. **\$1,000.00** for violating FI §§ 11-517(a)(1), (4) and (5) for the material misrepresentation in Respondent's application regarding Ms. Freifeld's employment with Nations Bank/Bank of America.
- c. **\$1,000.00** for violating FI §§ 11-517(a)(4) and (5) for Respondent's failure to update its application by reporting to the Commissioner Respondent's Virginia broker license application denial.
- d. **\$1,000.00** for violating FI §§ 11-517(a)(4) and (5) for Respondent's failure update its application by reporting to the Commissioner Ms. Freifeld's U.S. District Court bankruptcy case.
- e. **\$1,000.00** for violating FI §§ 11-517(a)(4) and (5), and FI § 505(d)(2) by doing

business in a name other than that which appears on Respondent's original and branch licenses.

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

COMMISSIONER OF FINANCIAL REGULATION

By:



Mark Kaufman, Deputy Commissioner